

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

April 14, 2021

1:05 p.m.

MEMBERS PRESENT

Representative Josiah Patkotak, Chair
Representative Grier Hopkins, Vice Chair
Representative Zack Fields
Representative Calvin Schrage
Representative Sara Hannan
Representative George Rauscher
Representative Mike Cronk
Representative Ronald Gillham
Representative Tom McKay

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 26

"An Act relating to participation in matters before the Board of Fisheries and the Board of Game by the members of the respective boards; and providing for an effective date."

- MOVED HB 26 OUT OF COMMITTEE

HOUSE BILL NO. 98

"An Act relating to forest land use plans; relating to forest land use plan appeals; relating to negotiated timber sales; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 26

SHORT TITLE: CONFLICT OF INTEREST: BD FISHERIES/GAME

SPONSOR(S): FISHERIES

02/18/21	(H)	PREFILE RELEASED 1/8/21
02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	FSH, RES
02/25/21	(H)	FSH AT 10:00 AM GRUENBERG 120

02/25/21	(H)	-- MEETING CANCELED --
03/12/21	(H)	BILL REPRINTED
03/16/21	(H)	FSH AT 11:00 AM GRUENBERG 120
03/16/21	(H)	Heard & Held
03/16/21	(H)	MINUTE(FSH)
03/18/21	(H)	FSH AT 11:00 AM GRUENBERG 120
03/18/21	(H)	Moved HB 26 Out of Committee
03/18/21	(H)	MINUTE(FSH)
03/20/21	(H)	FSH RPT 5DP 1DNP 1NR
03/20/21	(H)	DP: STORY, STUTES, ORTIZ, KREISS- TOMKINS, TARR
03/20/21	(H)	DNP: MCCABE
03/20/21	(H)	NR: VANCE
03/31/21	(H)	RES AT 1:00 PM BARNES 124
03/31/21	(H)	Heard & Held
03/31/21	(H)	MINUTE(RES)
04/09/21	(H)	RES AT 1:00 PM BARNES 124
04/09/21	(H)	Heard & Held
04/09/21	(H)	MINUTE(RES)
04/14/21	(H)	RES AT 1:00 PM BARNES 124

BILL: HB 98

SHORT TITLE: FOREST LAND USE PLANS; TIMBER SALES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	RES, FIN
03/12/21	(H)	RES AT 1:00 PM BARNES 124
03/12/21	(H)	Heard & Held
03/12/21	(H)	MINUTE(RES)
03/19/21	(H)	RES AT 1:00 PM BARNES 124
03/19/21	(H)	<Bill Hearing Canceled>
04/14/21	(H)	RES AT 1:00 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE GERAN TARR

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Provided information and answered questions during the hearing on HB 26 on behalf of the House Special Committee on Fisheries, sponsor.

GLENN HAIGHT, Executive Director II

Board of Fisheries

Boards Support Section

Alaska Department of Fish & Game (ADF&G)

Juneau, Alaska

POSITION STATEMENT: Provided information and answered questions during the hearing on HB 26.

TIM DABNEY, Acting Director and Acting State Forester

Division of Forestry (DOF)

Department of Natural Resources (DNR)

Anchorage, Alaska

POSITION STATEMENT: Provided information and answered questions during the hearing on HB 98.

CHRISTOPHER ORMAN, Assistant Attorney General

Natural Resources Section

Civil Division (Juneau)

Department of Law

Juneau, Alaska

POSITION STATEMENT: Provided information and answered questions during the hearing on HB 98.

ACTION NARRATIVE

[1:05:35 PM](#)

CHAIR JOSIAH PATKOTAK called the House Resources Standing Committee meeting to order at 1:05 p.m. Representatives McKay, Fields, Cronk, Hopkins, Schrage, Gillham, Hannan, Rauscher, and Patkotak were present at the call to order.

HB 26-CONFLICT OF INTEREST: BD FISHERIES/GAME

[1:06:48 PM](#)

CHAIR PATKOTAK announced that the first order of business would be HOUSE BILL NO. 26, "An Act relating to participation in matters before the Board of Fisheries and the Board of Game by the members of the respective boards; and providing for an effective date."

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REPRESENTATIVE GERAN TARR, Alaska State Legislature, noted that the HB 26 allows conflicted board members to deliberate, but not vote, on issues in the interest of transparency of the board process.

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REPRESENTATIVE FIELDS said that in considering this potential legislation he reflected on the role of legislative committee members. He said that he believes that it's important to have informed input on issues as a matter of public record.

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REPRESENTATIVE CRONK said that he remains confused by HB 26. He related an experience of hearing testimony against someone who had a perceived conflict of interest, and opined that HB 26 "actually favors a member testifying," characterizing it as a "mixed message."

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REPRESENTATIVE RAUSCHER referred to Amendment 1, which failed to be adopted by the committee, and stated his belief that Resident Hunters of Alaska (RHAK) "didn't really care one way or the other about the amendment." He then opined that there is varying support for HB 26 and expressed his belief that HB 26 is a Board of Fisheries bill and should not include the Board of Game. He stated that he cannot support the proposed legislation.

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CHAIR PATKOTAK discussed referencing the official record of actions by a board when considering actions in the future.

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GLENN HAIGHT, Executive Director II, Board of Fisheries, Boards Support Section, Alaska Department of Fish & Game (ADF&G), explained that, while boards will typically engage in deliberations and pass proposals or regulations which are very clear and with specific language, there are occasions during which deliberations are viewed as litigation. He expressed that it was unclear to him how HB 26 would impact consideration of previous deliberations.

CHAIR PATKOTAK asked, "The benefit of having those discussions and the ability for somebody who might be conceived as having a conflict to have that discussion and provide that input on the record isn't going to necessarily affect the outcome of the vote?"

MR. HAIGHT responded, "It's hard to speculate what a board member might glean from an informal conversation with a member who's been recused." He noted that the information would be more clearly on the record if the conflicted individual was present to deliberate.

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REPRESENTATIVE CRONK opined that there is nothing wrong with the system currently in place.

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REPRESENTATIVE TARR expressed her belief that the benefit of HB 26 would be improved transparency by having deliberations on the record. She said that she understands the differing perspectives affecting the Board of Game versus the Board of Fisheries, but those boards are allocating a common property resource, and having the same administration is the reason why they are both included in this proposed legislation.

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REPRESENTATIVE HOPKINS moved to report HB 26 out of committee with individual recommendations and the accompanying fiscal notes.

[1:19:04 PM](#)

REPRESENTATIVES CRONK and RAUSCHER objected.

[1:19:06 PM](#)

CHAIR PATKOTAK invited either Representative Cronk or Rauscher to speak to their objection.

[1:19:10 PM](#)

REPRESENTATIVE RAUSCHER reiterated his earlier remarks.

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A roll call vote was taken. Representatives Fields, Hopkins, Hannan, Schrage, and Patkotak voted in favor of HB 26. Representatives McKay, Cronk, Rauscher, and Gillham voted against it. Therefore, HB 26 was reported out of the House Resources Standing Committee by a vote of 5-4.

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The committee took a brief at-ease at 1:20 p.m.

HB 98-FOREST LAND USE PLANS; TIMBER SALES

[1:24:17 PM](#)

CHAIR PATKOTAK announced that the final order of business would be HOUSE BILL NO. 98 "An Act relating to forest land use plans; relating to forest land use plan appeals; relating to negotiated timber sales; and providing for an effective date."

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TIM DABNEY, Acting Director and Acting State Forester, Division of Forestry (DOF), Department of Natural Resources (DNR), referred to the questions raised during the March 12, 2021, hearing on HB 98 and said that answers have been provided directly to committee members. He then said that flexibility is needed to allow negotiation for timber sales and exporting logs, which HB 98 would allow. He said HB 98 would modernize statutes by simplifying what he described as "confusing negotiated timber sale laws," increase flexibility in sales to meet evolving market demands, and support export markets while still protecting local markets. He reiterated the parameters proposed in HB 98 for best interest findings (BIFs) and Forest Land Use Plans (FLUPs), and summarized again the benefits of the proposed legislation.

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REPRESENTATIVE RAUSCHER said that it's important that local areas and small companies be considered when large companies enter into sales contracts. He then referred to a memorandum ("memo") he distributed titled "Intent language HB 98" [included in the committee packet], which read as follows [original punctuation provided]:

It is the intent of the legislature that when utilizing programs in this act that private companies pay attention to, and should encourage, local hire for all forestry companies and contractors, including firefighting, timber sales of any size, and all timber related activities.

It is the intent of the legislature that the state of Alaska prioritizes timber access for log homes and dimensional lumber for local Alaska residents, and Alaskan companies headquartered in the state, when conducting timber sales.

It is the intent of the legislature that the state of Alaska make more areas available for personal use firewood. These areas, determined by the Division, should provide equitable acreage across the state in reasonable proximity to population areas, and access by road should be considered a priority.

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REPRESENTATIVE FIELDS expressed his agreement with Representative Rauscher and said that it seems Chinese companies are harvesting timber from more areas. He asked whether a Chinese company could bring in its own workers to harvest timber from Alaska.

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CHRISTOPHER ORMAN, Assistant Attorney General, Natural Resources Section, Civil Division (Juneau), Department of Law, noted that there are many legal issues surrounding hiring that he would need time to research.

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REPRESENTATIVE FIELDS described China's Belt and Road Initiative, through which China has invested in economic development in different countries. He expressed concern over the ramifications of this initiative and suggested the possibility of limiting timber harvest to companies headquartered in Alaska. He also broached considering limiting the geographic scope of HB 98 to the Alaskan Interior.

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CHAIR PATKOTAK noted the importance of the intent language.

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REPRESENTATIVE HANNAN commented on the intent language in the memo from Representative Rauscher, which she characterized as the "lifting, in the bill, of the provisions that ban exports

under negotiated sales." She said that in a follow-up meeting with Mr. Dabney, he described the exports as originating in southeast Alaska, which, she said, is an area of concern. She opined that a negotiated sale benefits a company, but requiring the work to be kept in state is a way to operating without having legal questions regarding only hiring locally. She asked Mr. Dabney to talk about why it's desirable to lift the export bank with regard to negotiated sales.

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MR. DABNEY said that being able to negotiate for timber exports would benefit the state in both revenue and jobs.

REPRESENTATIVE HANNAN asked Mr. Dabney for further explanation.

MR. DABNEY explained that there are various ways to sell timber; the DNR commissioner would consider the best type of contract for the local timber market, the domestic market, and the local economy. He said that it's the stance of DOF that "taking advantage of negotiated timber sales that would allow for export could actually have a benefit to the local economy."

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REPRESENTATIVE HOPKINS referred to Representative Rauscher's memo and asked about the intention of keeping firefighting local.

REPRESENTATIVE RAUSCHER said that firebreaks are often done without a contract.

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REPRESENTATIVE CRONK said that local firefighting crews are used "less and less," and spoke of the intent to amend HB 98 to include language regarding the use of local labor resources.

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REPRESENTATIVE HOPKINS noted that planned firebreaks are in strategic locations and asked whether they are handled along with a timber sale.

MR. DABNEY replied that there are situations in which firebreaks are included in the commercial harvest and used the Tok area harvests of white spruce as an example.

REPRESENTATIVE HOPKINS asked whether DOF takes bids for a specific firebreak to be cut down or the felled timber is simply collected or planning and creation of the firebreak is added to the timber harvest.

MR. DABNEY responded that any of those actions would be possible.

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REPRESENTATIVE FIELDS asked Mr. Dabney to compare the amount of state land versus private land affected by HB 98.

MR. DABNEY replied that HB 98 is applicable only to lands under the jurisdiction of DOF.

REPRESENTATIVE FIELDS noted that it's legal to require in-state hiring for work activities on state land, and there is a long-standing precedent for doing so. He discussed his intention to work on an amendment requiring in-state hiring.

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REPRESENTATIVE CRONK said that local vendors in his district are concerned about the lack of protections for local needs. They would like to have domestic markets take priority over export markets, as well as giving preference in contracts to businesses that have established value-added wood product manufacturing facilities in the state. He said, "All long-term contracts authorized by the Division [of Forestry] shall have a requirement to begin full-scale utilization of the timber resource by the contract holder within two years." He added, "Hopefully, we're not having people just lock up tracts of land." Considering long-term contracts, he said, businesses in his district would like DOF to give preference to businesses who provide value-added timber like logs, lumber, and chipping; preference should be given to businesses located in the area and have limited options for sustainable resources.

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REPRESENTATIVE FIELDS related observations during his previous role at the Department of Labor & Workforce Development of "fairly horrific labor abuses on federal lands" in which multinational companies would bring in illegal immigrants who were then subjected to workplace safety issues. In one

instance, he said, a crew of workers on Chichagof Island was "effectively abandoned by their company" and took a skiff to the mainland, where one was attacked by a bear. He characterized local businesses as having strong interest in the welfare of their community.

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REPRESENTATIVE HANNAN asked whether there is a definition of "value-added" that DOF is required to use.

MR. DABNEY explained that "value-added" includes most of the wood products in the state.

REPRESENTATIVE HANNAN noted the use of the term "local use" and asked whether DOF considers firewood to be a value-added product, or whether language on "local use" would need to be inserted.

MR. DABNEY said firewood would be included in "**other value-added wood products**.", as stated in Section 9, subsection (a), on page 8, line 6, of HB 98.

REPRESENTATIVE HANNAN said:

I want to confirm that you are on the record saying that on Section 9, line 6, other value-added wood products you would determine that that would include firewood for a local user, even if they were not commercially selling it; but say Representative Cronk is going to go clear railway access and heat his home with 10 cords of wood for the next two winters, that that is a value-added product.

MR. DABNEY replied, "Correct."

REPRESENTATIVE HANNAN referred to the part of HB 98 repealing subsection AS 38.05.123(g), a statute which she described as allowing the commissioner to require a purchaser of wood products to fund economic analysis to ensure that the sale conforms to the BIF. She said Mr. Dabney had expressed to her that the provision has never been used, which she asked Mr. Dabney to confirm. She opined that if the statute has never been used, it's not a hinderance to the process, and she would like to keep it in statute.

MR. DABNEY confirmed that the provisions under AS 38.05.123(g) have never been utilized, and that he doesn't expect them to be used in the future. He said that if DNR needs the information which would be gleaned from the provisions under that statute, the service would be sought from an entity other than the purchaser.

REPRESENTATIVE HANNAN expressed that the statute requires the purchaser to pay for the analysis, as opposed to carry it out. She opined that if more negotiated sales are expected in the future, and appeals are being reduced, then it's necessary to ensure that the best interest findings are accurate with regards to local uses and potential development. She said that with budget cuts to DNR, it's important to have the ability to require a contractor to pay for economic analysis rather than delaying the sale or expecting the expertise to come from within DNR.

MR. DABNEY said that part of the reason for adding the language repealing AS 38.05.123(g) was to streamline the statutes.

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MR. ORMAN explained that AS 38.05.123 is only for negotiated sales for local manufacture of wood products.

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CHAIR PATKOTAK spoke of extending the deadline for amendments, the several amendment propositions that have been discussed, and the importance of working the amendments in good faith.

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REPRESENTATIVE FIELDS said that he has enough information to move forward in writing amendments.

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REPRESENTATIVE HANNAN asked Mr. Orman to explain the reason for including the repeal of AS 38.05.123(e).

MR. ORMAN noted that he can explain the legal aspect, but would defer to Mr. Dabney to explain the policy aspect. He explained that AS 38.05.123(e) cites seven factors to consider in making a best interest finding; HB 98 would amend AS 38.05.110(c) to include six factors that, while not identical to the factors

currently listed in AS 38.05.123(e), would provide guides for considering applicable provisions of a timber sale. Appealing AS 38.05.123(e) and amending AS 38.05.123(c) would avoid redundancy in determining appropriate contract provisions.

REPRESENTATIVE HANNAN asked Mr. Dabney to explain how the factors specified in AS 38.05.123(e) would translate to the proposed amended AS 38.05.123(c).

MR. DABNEY explained that for HB 98, the seven factors in AS 38.05.123(e) were reworded into six items. He clarified that subparagraph AS 38.05.123(e)(7) is identical to the amended subparagraph AS 38.05.123(c)(6) proposed under HB 98.

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CHAIR PATKOTAK invited Representative Hopkins to discuss documents included in the committee packet.

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REPRESENTATIVE HOPKINS noted that the documents in question were provided by DNR and explained that the briefing paper covers the size of a timber sale which would be exempt from a FLUP; he also referred to a document listing all timber sales under 10 acres for both personal and commercial uses. He noted that he did not ask how many timber sales would fall under the new guideline of 20 acres and asked DNR to supply a list of harvests of between 10 and 20 acres from fiscal year 2016 (FY 16) through FY 20 to get a clearer picture of what the impact would have been over the past five years under HB 98. Representative Hopkins asked Mr. Dabney, "In terms of the difference between a management plan and a forest land use plan, would anything in HB 98 allow the timber harvest sale to not adhere to a forest management plan?"

MR. DABNEY replied, "All forest land use plans would have to adhere to a management plan."

REPRESENTATIVE HOPKINS followed up to ask if there is anything in FLUPs that would allow a timber harvest to clear cut or otherwise ignore sustainable harvest principles.

MR. DABNEY responded that DOF is constitutionally required to main sustained yield principles.

REPRESENTATIVE HOPKINS said, "'It's in the Constitution,' those are the words I wanted to hear."

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CHAIR PATKOTAK said that HB 98 was held over.

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ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:14 p.m.